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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,814	02/13/2002	Mitchell J. Hobert	004027.00019	8084
22910	7590	12/08/2003	EXAMINER	
BANNER & WITCOFF, LTD. 28 STATE STREET 28th FLOOR BOSTON, MA 02109-9601			WEBB, GREGORY E	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 12/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/074,814

Applicant(s)

HUBERT ET AL.

Examiner

Gregory E. Webb

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 19 is objected to because of the following informalities: It is unclear to the examiner exactly what the term "form-forming agent" refers to. The examiner will assume that this term was intended to mean "foam-forming agent." The instant case will be examined based on this assumption. Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Woo et al (US 5,232,632).
3. The applicant claims a composition with 6 features including: 1) aqueous; 2) foaming; 3) non-neutral pH; 4) containing a form-forming agent; 5) a foam stabilization agent; and 6) a non-aqueous solvent.
4. Woo teaches a composition in example 1 (see col. 11) containing 1) water; 2) high foam surfactants; 3) a pH of 3; 4) 3-N-dodecyl-N,N-dimethyl-2-hydroxy-propane-1-sulfonate; 5) xanthan gum (a polysaccharide foam stabilizing agent); and 6) butoxy propoxy propanol.
5. Claims 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Sherry (US 6,627,590).

6. Sherry teaches compositions containing 1) water; 2) foaming agents such as alkyl sulfates; 3) a pH of 2-5; 4) alkyl sulfate foaming agents including decyl sulfate; 5) polymer thickeners which would also function to stabilize foam; 6) insoluble glycol ether solvents (see cols. 1-2).
7. Claims 19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Robbins et al (US 6,245,728).
8. Robbins teaches composition containing 1) water; 2) anionic surfactants; 3) a higher than 7 pH; 4) foam forming surfactants; 5) a foam stabilization agent (see claim 13); and 6) water-insoluble solvents (see claims 1-17; and example found in table IV).
9. Claims 19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Gray et al (US 5,019,289).
10. Gray teaches compositions containing 1) water; 2) anionic foaming agents; 3) a pH of greater than 10 (see claim 6); 4) foam forming surfactants such as linear alkyl sulfonates (LAS; see table III); 5) foam stabilizing agents including xanthan and guar gum (see col. 9, lines 30-55).
11. Gray discusses foaming further (see col. 9, lines 1-20).

Allowable Subject Matter

12. Although no pending claims have been found to be allowable, it is suggested that the applicant more specifically define the functional compounds. For example, the applicant describes in claim 19 a "foaming agent." Such broad language encompasses thousands of foaming surfactants. It is therefore suggested that the applicant pick specific compounds, possibly with specific weight percentages, and not use generic functional language.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory E. Webb whose telephone number is 703-305-4945. The examiner can normally be reached on 9:00-17:30 (m-f).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 703-308-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

A handwritten signature in black ink, appearing to read 'Gregory E. Webb', with a stylized, flowing script.

Gregory E. Webb
Primary Examiner
Art Unit 1751

gw